

**Appl. No.** : 10/799,337  
**Filed** : March 12, 2004

### **REMARKS**

The following remarks are responsive to the July 19, 2006 Office Action. Claims 1-18, 20, and 21 were pending prior to the amendments herein. New Claims 22-31 have been added. Claims 1-18 and 20-31 are therefore pending.

#### **Claim 19**

Claim 19 was canceled in the June 20, 2006 response to the Office Action dated March 24, 2006. However, the Office Action dated July 19, 2006 indicates that Claim 19 is allowed. Applicant respectfully requests clarification about the status of this claim.

#### **Allowable Subject Matter**

Applicant notes with appreciation that Claims 4, 16-18, 20, and 21 are allowed.

#### **Response to Rejections Under 35 U.S.C. § 103**

##### Claims 1-3, 5-8, and 10-15

Claims 1-3, 5-8, and 10-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,979,454 to Anvari et al. in view of U.S. Patent No. 6,979,327 to Spencer. Applicant respectfully traverses the present rejection because Anvari, either alone or in combination with Spencer, fails to teach or suggest all of the features of the rejected claims.

##### Claims 1 and 2

Anvari does not teach or suggest “a source of UV light . . . including an intensity between about 16 and 20 minimum erythema doses (MED),” as recited by Claim 1 or “a source of high intensity ultraviolet light between about 16 and 20 minimum erythema doses (MED),” as recited by Claim 2. Rather, Anvari teaches a source of infrared light that is selected in order to avoid damage to the overlying epidermis. *See* Anvari at col. 4, ll. 3-5.

Applicant submits that Spencer does not correct this deficiency. In particular, the Office Action fails to establish that the laser used by Spencer is capable of providing “an intensity between about 16 and 20 minimum erythema doses (MED),” as recited by Claim 1 or “high intensity ultraviolet light between about 16 and 20 minimum erythema doses (MED),” as recited by Claim 2. Accordingly, the Office Action does not establish a *prima facie* case of obvious by

**Appl. No.** : **10/799,337**  
**Filed** : **March 12, 2004**

articulating how the combination of Anvari and Spencer discloses each of the features of the rejected claims. See M.P.E.P. § 2143 (stating that in order to establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations).

Additionally, there is no motivation or suggestion to combine Anvari, which discloses a cooling system for use with infrared light, with Spencer, which discloses a narrow band of UV light without a cooling system. Applicant respectfully requests that the rejections of Claims 1 and 2 over Anvari in view of Spencer be withdrawn.

Claims 5-8 and 10

As described above, Claim 1 is not unpatentable over Anvari in view of Spencer. Claims 5-8 and 10 depend from Claim 1. Thus, Claims 5-8 and 10 include all of the features of Claim 1 and recite unique combinations of additional features not taught or suggested by the cited references. Anvari and Spencer therefore fail to disclose the combinations of features recited in Claims 5-8 and 10. Therefore, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 5-8 and 10.

Claims 3 and 11-15

As described above, Claim 2 is not unpatentable over Anvari in view of Spencer. Claims 3 and 11-15 depend from Claim 2. Thus, Claims 3 and 11-15 include all of the features of Claim 2 and recite unique combinations of additional features not taught or suggested by the cited references. Anvari and Spencer therefore fail to disclose the combinations of features recited in Claims 3 and 11-15. Therefore, Applicant respectfully requests that the Examiner withdraw the rejections of Claims 3 and 11-15.

Claim 9

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Anvari in view of Spencer and further in view of U.S. Patent No. 6,709,269 to Altshuler. Applicant respectfully traverses the present rejection because Anvari, Spencer, and Altshuler, either alone or in combination, fail to teach or suggest all of the features of the rejected claims.

As described above, Claim 1 is not unpatentable over Anvari in view of Spencer. Claim 9 depends from Claim 1. Thus, Claim 9 includes all of the features of Claim 1 and recites unique combinations of additional features not taught or suggested by the cited references. Altshuler does not make up for the deficiencies of Anvari and Spencer because Altshuler does not teach or

Appl. No. : 10/799,337  
Filed : March 12, 2004

suggest "a source of UV light . . . including an intensity between about 16 and 20 minimum erythema doses (MED)," as recited by Claim 1. Therefore, Applicant respectfully requests that the Examiner withdraw the rejections of Claim 9.

### New Claims

Claims 22-31 have been added and are fully supported by the application as originally filed. For example, see ¶¶ [0085], [0095]-[0097], & [0099] of the published application. Applicants respectfully submit that Claims 22-31 are allowable, for example because none of the references of record teaches or suggests at least "a computing device in communication with the user interface, the computing device configured to automatically calculate the dosage of the UV light based on the input," as recited by Claim 22 or at least "a computing device configured to automatically increase the dosage of the UV light to determine the MED of a patient," as recited by Claim 24. Furthermore, each of the new claims recites further distinguishing features of particular utility.

### Summary

Applicant respectfully submits that all of the pending claims are allowable. Applicant respectfully requests that the Examiner withdraw the rejections and to pass Claims 1-18 and 20-31 to allowance.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1/19/07

By: 

Mark J. Gallagher  
Registration No. 43,622  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404